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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,487	08/19/2003	Peter H. Soderberg	281_382NP	5437
72742	7590	12/12/2007		
Hiscock & Barclay, LLP One Park Place 300 South State Street Syracuse, NY 13202-2078			EXAMINER ASTORINO, MICHAEL C	
			ART UNIT	PAPER NUMBER
			3736	
			MAIL DATE	DELIVERY MODE
			12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,487

Applicant(s)

SODERBERG ET AL.

Examiner

Michael C. Astorino

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/18/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 90 and 94-106 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 90 and 94-106 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The examiner acknowledges the RCE wherein claims 90 and 94-106 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 90 and 94-103 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The added language to claim 90, “wherein if the trended blood pressure readings change since the most recent measurement using said cuff, then the predetermined inflation pressure of said cuff is automatically changed in relation to the change in the trended blood pressure readings” does not appear to be in the original specification.

The closest subject matter appears to be in paragraph [0150], however the description is vague concerning the limitation. Although paragraph [0150] mentions *trends*, the paragraph only states that results change are measured for trends. Not those trends can be used to set the inflation pressure. The only disclosure of automatically setting inflation pressure as presently understood by the examiner is from the actual readings not the trends. Although the last sentence of the paragraph states “[t]his information can also be used to control the proper

inflation of the sleeve automatically” it is unclear if “information” related to the trends. See paragraph [0150] below (emphasis added).

[0150] The diagnostic workstation 500 can also be programmed to take patient vital signs on a predetermined schedule. Therefore, each workstation 500 can be configured to a specific patient's characteristics by data logging. That is, the workstation 500 can be programmed to take *patient readings* every fifteen minutes (or some other predetermined time period), with the readings being compared to existing or previous stored readings. An alert will be sounded if the readings, for example, drop by 20 percent or other predetermined value. In this manner, patients with higher than normal blood pressure readings can be compensated for as opposed to "normal" patients. These results can be examined for *trends*, such as those in FIG. 32. Moreover, *these readings* can be used to preset the capture of blood pressure readings automatically by comparing stored readings and by using the readings (e.g. a patient being hypo or hypertensive) *to control the inflation of the blood pressure sleeve*. Blood pressure sleeves can also be identified in advance of use by the workstation 500 through use, for example, of bar-coded or other machine-readable information labels that are disposed on the sleeve. These tags can include not only inventory information, but also can include, for example, the width of the sleeve, the information being scanned by the scanner 540 prior to use of the sphygmomanometer. *This information can also be used to control the proper inflation of the sleeve automatically.*

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

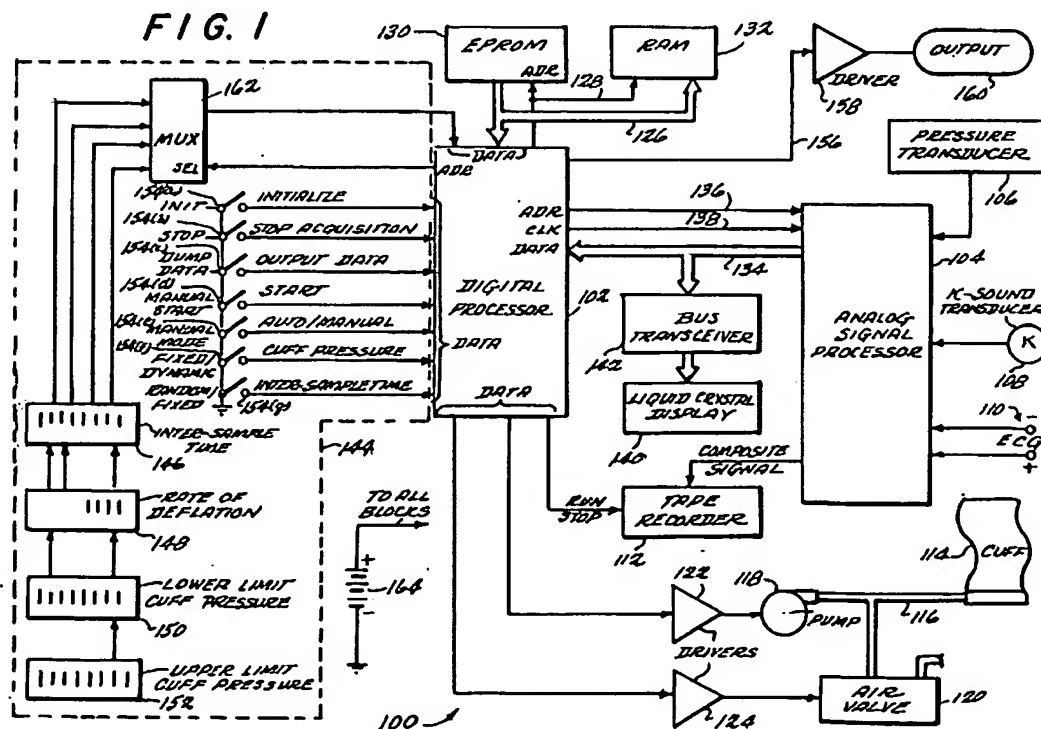
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 90, 94, 97-100 and 103 are rejected under 35 U.S.C. 102(b) as being anticipated by Hutcheson et al. US Patent Number 4,889,132.

Hutcheson et al. discloses a portable auscultatory blood pressure and heart rate measurement system is wearable by an ambulatory patient and measures systolic and diastolic pressure upon request or at random time intervals within a user-programmed range. Cuff inflation pressure and deflation rate are also user programmable. Analysis results are stored along with a sample number and time of measurement under on-board digital signal processor control, in both a solid state memory and an analog serial data storage medium such as magnetic tape. Also, data may be retrieved by local display, for example, in a biofeedback setting, or display on an external video display or printer, or can be downloaded in digital form to a local or remote digital computer. (see abstract and figure 1.)

Additionally, Hutcheson et al. discloses a cuff inflation pressure is determinable from previously-measured systolic blood pressure of the patient. (see column 10, lines 18-47).



Application/Control Number:
10/643,487
Art Unit: 3736

Page 5

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 95-96 and 101-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutcheson et al. US Patent Number 4,889,132 as applied to claims 90 and 96 above, and further in view of Halpern et al. US Patent Number 5,687,717 A.

In regards to claims 95-96 and 101-102, Hutcheson et al. does not disclose his workstation as being part of a wireless network. However, Halpern et al. a reference in an analogous art does disclose the use of a blood pressure device in a wireless network (column 7, lines 58-65 and figures 1 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the blood pressure device of Hutcheson et al. so as to be a part of the wireless network of Halpern et al., since Halpern et al. states the benefit of transporting and monitoring the blood pressure of a patient at the same time, see columns 1-2.

Claims 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanna US Patent Number 6,450,966 B1 and Roehrer US Patent Number 6,579,241 B2 as applied to claims 90 and 96 above, and further in view of Weiner et al. US Patent Number 6,988,989 B2.

Claims are rejected on substantially the same basis as the previous office action. See also Response to Arguments section below.

Note to Applicant: the word "for" and "configured to" in the claim may be properly interpreted as "capable of," and "capable of" does not require that reference actually teach the intended use of the element, but merely that the reference does not make it so it is incapable of performing the intended use.

Response to Arguments .

Applicant's arguments filed September 18, 2007 have been fully considered but they are not persuasive.

Examiner acknowledges and is appreciative of Applicant's efforts to amend the claims over the prior art to advance the prosecution of the case. Unfortunately those efforts are not able to overcome the prior art and other rejections at this time.

Applicant's arguments with respect to claims 90 and 94-103, have been considered but are moot in view of the new ground(s) of rejection.

Regarding claim 104, Applicant argues the prior art does not reject the amended claim. As previously mentioned the prior art discloses a range. On page 13, lines 8-12, "Weiner describes a remote monitoring system in which alerts can be set based on nominal ranges. See Weiner at col 28, lines 17-31. A closer review of this portion, however, indicates that a controller is used to analyze vital sign data in order to detect whether the data is within a preset range. Moreover, this portion further indicates that various forms of vital signs data (e.g., blood pressure, pulse oximetry, temperature) may be similarly analyzed." If the data/measurements are within the alert range the alert would be set off and the condition would be 100%. If the data did not set off the condition it is at 0% and no alert. Therefore the prior art, computes a percentage that defines an acceptable range of parameter values that read on the claim.

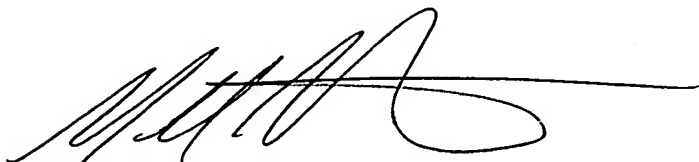
The Applicant is invited to request an interview to discuss suggestions to overcome the applied prior art and/or 35 U.S.C. 112 rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Astorino whose telephone number is 571-272-4723. The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Michael Astorino', with a long horizontal flourish extending to the right.

Michael Astorino
December 10, 2007